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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/107,787 06/30/98 BUCHANAN J 10000-1

IM22/0607

RONALD A BLEEKER
MOBIL OIL CORPORATION
3225 GALLOWES RD
FAIRFAX VA 22037

EXAMINER

BUSHEY, C

ART UNIT

PAPER NUMBER

1724

DATE MAILED:

06/07/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/107,787

Applicant(s)

BUCHANAN ET AL

Examiner

Scott Bushey

Group Art Unit

1724



☒ Responsive to communication(s) filed on May 12, 2000

☒ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

☒ Claim(s) 10-16 is/are pending in the application.

Of the above, claim(s) 10 and 13-16 is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 11 and 12 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☒ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☐ received in Application No. (Series Code/Serial Number) _____.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

1. This application contains claims 10, and 13-16 drawn to an invention or species nonelected with traverse in Paper No. 7. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

2. The oath or declaration is defective. A new oath or declaration in compliance with 37 CFR 1.67(a) identifying this application by application number and filing date is required. See MPEP §§ 602.01 and 602.02.

The oath or declaration is defective because:

The declaration does not acknowledge the filing of the provisional application 60/065,498 filed November 19, 1997 upon which applicant's claim for domestic priority under 35 U.S.C. 119(e) is based. A new oath or declaration is required in the body of which the provisional application should be identified by application number and filing date, and wherein the claim for domestic priority under 35 U.S.C. 119(e) should be made.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

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4. Claims 11 and 12 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by Sheinman (Figs. 1 and 2; col. 2, line 26 through col. 3, line 1).

Applicant should note that the liquid enters the cyclonic device from a tray outside located outside of the sidewalls of the device. The liquid collects on the tray until it reaches a level equal to the top end of plenum or downcomer (7), at which time it flows downwardly through (7) to the lower end thereof wherein the liquid exits pipe (7) through the sidewall thereof near the bottom end of the cyclonic region. Applicant should also recognize that outlets (5) arranged in the sidewall of the cyclonic device are provided between the first set of spin devices (11) and the second set of spin devices (12), the second set of spin devices being arranged near (or "at about") the midpoint of the cyclonic device and occupying about 15% of the elevation of the cyclonic device.

5. Applicant's arguments filed May 12, 2000 have been fully considered but they are not persuasive.

Applicant states that Sheinman's vanes are not located at the mid-point of his device, which applicant alleges is required by instant claim 11. However, applicant's claims are not nearly as precise as his arguments, since instant claim 11 requires only that the vanes are "at about the mid-point" of the continuous side wall. The use of the term "about" renders the claim sufficiently broad with respect to the vane positioning to allow for the proper application of the teaching (Fig. 1) of the Sheinman reference against instant claims 11 and 12 as anticipatory thereof under 35 U.S.C. 102(e).

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6. Applicant's amendment necessitated the new grounds of rejection presented in this Office action, i.e., the rejection of newly presented claims 11 and 12 over previously applied art that was previously applied under the same statute as in this Final rejection. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

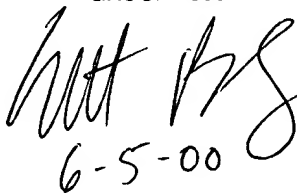
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Bushey whose telephone number is (703) 308-3581.

csb

June 5, 2000

C. SCOTT BUSHEY
PRIMARY EXAMINER
GROUP 1300


6-5-00